

Remarks

Introduction

This Amendment is submitted in response to the final Office Action mailed July 21, 2010. Claims 1-13, 15, 17, 18 and 21-24 were pending. Claims 1-5, 12 and 21-24 stand rejected. Claims 6-11, 13, 15, 17 and 18 were withdrawn from consideration, and are hereby canceled.

Claims 1-5 were rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter.

Claims 1-5 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter Applicant regards as the invention.

Claims 1, 2, 4, 5, 12, 21 and 23-24 were rejected under 35 U.S.C. § 103(a) as being obvious in view of U.S. Patent Appl. Publication No. 2003/0191721 ("Fiammante") in combination with U.S. Patent Appl. Publication No. 2001/0037264 ("Husemann"), with Official Notice also being taken in connection with Claims 1 and 12.

Claims 3 and 22 were rejected under 35 U.S.C. § 103(a) as being obvious in view of Fiammante, Husemann and in further combination with U.S. Patent Appl. Publication No. 2002/0198849 ("Piikivi").

Independent Claims 1 and 12 are hereby amended and new Claims 25-27 have been added. The amendments and new claims raise no new material issues and are fully supported by the originally filed application. See, *e.g.*, paragraph [49] on pages 8 and 9 of Applicant's originally filed specification. Applicant respectfully traverses the rejections of the claims based on the above amendments and following remarks.

Summary of Telephonic Examiner Interviews

Applicant's undersigned attorney wishes to thank Examiner Huang for the courtesies extended during the telephonic interviews conducted on September 30, 2010 and October 1, 2010. During the interviews, Applicant's attorney and the Examiner discussed each of the rejections and the finality of the Office Action.

With regards to the rejections under 35 U.S.C. § 101, the Examiner acknowledged that Claim 1 is directed to a type of machine, but asserted that the “certifier” may be a human being. In response, Applicant’s attorney submitted that the claim should be considered as a whole and, even if the certifier may be a human being, Claim 1 would still be directed to a machine and therefore satisfies the requirements of 35 U.S.C. § 101. After speaking with the Supervisor Patent Examiner assigned to this case, the Examiner suggested that amending the claim to say “a certifier device” would overcome the rejections based on 35 U.S.C. § 101. Accordingly, Applicant has amended Claim 1 consistent with what was suggested by the Examiner.

With regards to the rejections under 35 U.S.C. § 112, second paragraph, Applicant’s attorney submitted that Claim 1 requires each recitation to be implemented by an electronic transaction system, with “service providing server 300” of FIG. 2 being an example of such a system shown by Applicant’s originally filed application. After speaking with the Supervisor Patent Examiner assigned to this case, the Examiner suggested that amending the claim to say “device” after each recitation noted in the Office Action would overcome the rejections based on 35 U.S.C. § 101. Accordingly, Applicant has amended Claim 1 consistent with what was suggested by the Examiner.

The Examiner agreed that the general concept behind Applicant’s application is different than what is suggested by Fiammante, but that the independent claims were broadly written and therefore shown by Fiammante when combined with Husemann. Applicant’s attorney suggested specifying in the claims that the transaction history comprises a previous transaction to further distinguish the independent claims from how the Examiner is reading Fiammante. The Examiner agreed that such an amendment would overcome the current rejections under 35 U.S.C. § 103(a). Accordingly, Applicant has amended independent Claims 1 and 12 consistent with what was agreed upon during the telephonic interview.

Lastly, Applicant’s attorney submitted that the Office Action was improperly made final, because the Office Action does not address Applicant’s previous traversal of the Official Notices taken in the first Office Action. The Examiner noted that U.S. Patent Application Publ. No. 2002/0112171 (“Ginter”) shows or suggests the recitations for which the Office Action takes Official Notice. See, page 17 of the final Office Action.

Response to Rejections under Section 101

Claims 1-5 were rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Applicant respectfully traverses these rejections.

Independent Claim 1 recites “[a]n electronic transaction system ... comprising: a transaction processor” Although the Examiner acknowledged during the telephonic interview that this can only be a machine, to expedite allowance, Applicant has amended Claim 1 to recite “a certifier device” as suggested by the Examiner.

For at least these reasons, independent Claim 1 is directed to statutory subject matter. Claims 2-5 depend on Claim 1 and are, therefore, also directed to statutory subject matter. Accordingly, Applicant respectfully requests that the rejections under 35 U.S.C. 101 be withdrawn.

Response Rejections under Section 112

Claims 1-5 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter Applicant regards as the invention. These rejections are respectfully traversed in view of the amendments being made to the claims.

Independent Claim 1 recites “[a]n electronic transaction system ... comprising: a transaction processor” As noted above, the Examiner acknowledged during the telephonic interview that this can only be a machine. However, to expedite allowance, Applicant has amended Claim 1 to recite “a message sender device”, “transaction history sender device”, “a certifier device” and “a service provider device” as suggested by the Examiner.

Accordingly, Applicant respectfully requests that these rejections be withdrawn in view of the amendments to independent Claim 1.

Response Rejections under Section 103

Claims 1, 2, 4, 5, 12, 21 and 23-24, including independent Claims 1 and 12, were rejected under 35 U.S.C. § 103(a) as being obvious in view of Fiammante in combination

with Husemann, with an Official Notice also being taken in connection with Claims 1 and 12. Claims 3 and 22 were rejected under Section 103(a) as being obvious in view of Fiammante, Huseman and Piikivi.

Applicant has amended independent Claims 1 and 12 to recite, among other things, “the transaction history comprises information related to at least one previous transaction, each of the at least one previous transaction is associated with at least one of a mobile phone number, the certification mobile terminal, and user identification information associated with a user”

The Examiner agreed that such an amendment would overcome the rejections based on Fiamante, Husemann and/or Piikivi, as none of the documents of record show or suggest such a “transaction history” being received, transmitted, and then received again as digitally signed.

In addition to failing to show such a “transaction history,” none of the cited documents show or otherwise suggest “receiving a digitally signed transaction history from the certification mobile terminal” (e.g., cellular phone) and then “providing a service, with a transaction processor, to the transaction terminal according to the transaction after verifying the digitally signed transaction history.” Applicant’s independent Claim 12 (and dependent Claim 1 includes similar recitations). In contrast to what Applicant claims and as acknowledged by the Examiner, Fiammante transmits, signs and verifies the actual “transaction content” that is to be executed, as opposed to transmitting, signing and verifying a transaction history that is different than the transaction requested.

Husemann and the other documents of record likewise fail to fill the void of Fiammante.

Because the documents of record, taken alone or in combination, fail to show each recitation of independent Claims 1 and 12, Claims 1 and 12 are structurally different than what is shown in the documents of record and, therefore, patentably distinct. Moreover, because the documents of record fail to show or suggest the transaction history recited by Applicant’s independent claims, the documents of record are unable to perform the intended use of Applicant’s Claims 1 and 12.

Applicant, therefore, respectfully submits that independent Claims 1 and 12 are patentable for at least the above reasons, namely because none of the cited documents show or otherwise suggest a transaction history, let alone the recited uses of such a transaction history, that comprises information related to at least one previous transaction, each of the at least one previous transaction is associated with at least one of a mobile phone number, the certification mobile terminal, and user identification information associated with the user, and using such a transaction history as recited by Applicant's claims.

Although Applicant submits that the currently pending claims are patentable for at least the above reasons, Applicant also notes that independent Claim 12 recites the "transaction history [is] for settling the transaction provided by the user ..." and new dependent Claim 26 recites, "wherein the transaction processor inquires about a certification method for settling the transaction according to the request provided by the transaction terminal and receives the transaction history with the mobile phone number from the transaction terminal when the transaction terminal selects a digital certificate based certification." These recitations are not shown or suggested by the documents of record, taken alone or in combination.

Moreover, new dependent Claims 25 and 27 recite storing the transaction information in a history database to certify a subsequent transaction. These recitations are not shown or suggested by the documents of record, taken alone or in combination.

For at least the foregoing reasons, independent Claims 1 and 12 are patentable over Fiammante, Husemann and the other cited documents, taken alone or in combination. Since rejected Claims 2-4 and 21-24 depend from and necessarily include all of the recitations of independent Claims 1 or 12, the cited documents, whether taken alone or in combination, do not teach or suggest the systems of Claims 2-4 and 21-24 for at least the same reasons as described above in conjunction with independent Claims 1 and 12. ("If an independent claim is nonobvious under 35 U.S.C. § 103, then any claim depending therefrom is nonobvious." *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); MPEP § 2143.) Accordingly, it is therefore submitted that the 35 U.S.C. § 103(a) rejections of Claims 1-4, 12 and 21-24 have been overcome. Similarly, new Claims 25-27 are allowable for at least the same reasons, as new Claims 25-27 depend on allowable independent Claim 1 or 12.

Traversal of Official Notice

Lastly, while Applicant previously traversed the Official Notices and although the Examiner clarified during the October 1, 2010 telephonic interview that the traversal was successful and that Ginter is to be viewed in the place of the Official Notices taken in the final Office Action, Applicant respectfully requests that the phrase "Official Notice" not be used instead of specific Ginter citations to support any future rejection of the claims.


Conclusion

In view of the remarks presented above, Applicant submits that the present application is in condition for allowance. As such, the issuance of a Notice of Allowance is therefore respectfully requested. In order to expedite the examination of the present application, the Examiner is encouraged to contact Applicant's undersigned attorney in order to resolve any remaining issues.

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Amendment dated October 18, 2010
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It is believed that no extensions of time or other fees are required, other than those authorized in the Request for Continued Examination being filed herewith. However, in the event that any additional petitions or fees are required to allow consideration of this Reply, such extensions of time are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,


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